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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,216	06/22/2001	Veronique Guillou	209310US0	8029

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EXAMINER

WILLIS, MICHAEL A

ART UNIT PAPER NUMBER

1617

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/886,216

Applicant(s)

GUILLOU ET AL.

Examiner

Michael A. Willis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

Claims 1-20 are pending.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 is confusing because it is unclear if the claimed surfactant system is required to exhibit the lamellar phase at the same time as exhibiting a direct or cubic type phase, or whether the phases can be exhibited at different times, i.e. under different conditions.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 9-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lance-Gomez et al (US Pat. 6,007,769). Lance-Gomez discloses soap-based compositions for use in cleaning and air fragrancing products. The soap systems are thermally stable to 80°C (see col. 1, lines 64-65). The compositions form stable liquid

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crystals in water with a surfactant (see col. 3, line 60 through col. 4, line 5). Hexagonal phases are present at 60°C and 80°C for various compositions (see col. 10, lines 5-45 and Figs. 4-10). The systems also exhibit lamellar phases (see col. 10, lines 5-45).

While the reference is silent with respect to modulus and loss angle, it is the position of the examiner that the properties are inherent to the compositions. Lance-Gomez discloses that nonionic surfactant can be present in an amount from 0.5% to about 20%. Nonionic surfactants include ethoxylated C12-C14 fatty alcohols with long or short chain ethylene oxide, meeting the limitation of both water-soluble and water-insoluble surfactants (see col. 5, lines 25-43). The compositions may further comprise anionic surfactants (see col. 6, lines 44-46). Alkyl sulfates and alkyl ether sulfates such as lauryl sulfate and lauryl ether sulfate are disclosed as anionic surfactants, where the anionic surfactants are present in from 0 to about 15% by weight. Fatty acid soaps are disclosed in amounts from 0.1 to about 90% of the composition (see col. 4, lines 6-28). Additional solvents including isopropanol are disclosed (see col. 5, line 59 through col. 6, line 3). The limitation of "further comprising at least one thickening agent" of claim 18 is met by the use of fatty acid, as Lance-Gomez teaches that the addition of fatty acid results in viscous liquids or a rubbery gel (see col. 1, lines 54-63).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lance-Gomez et al (US Pat. 6,007,769) in view of Rosser (EP 0 339 994).

8. Lance-Gomez teaches soap-based compositions for use in cleaning and air fragrancing products. The soap systems are thermally stable to 80°C (see col. 1, lines 64-65). The compositions form stable liquid crystals in water with a surfactant (see col. 3, line 60 through col. 4, line 5). Hexagonal phases are present at 60°C and 80°C for various compositions (see col. 10, lines 5-45 and Figs. 4-10). The systems also exhibit lamellar phases (see col. 10, lines 5-45). Lance-Gomez teaches that nonionic surfactant can be present in an amount from 0.5% to about 20%. Nonionic surfactants include ethoxylated C12-C14 fatty alcohols with long or short chain ethylene oxide, meeting the limitation of both water-soluble and water-insoluble surfactants (see col. 5, lines 25-43). The compositions may further comprise anionic surfactants (see col. 6, lines 44-46). Alkyl sulfates and alkyl ether sulfates such as lauryl sulfate and lauryl ether sulfate are taught as anionic surfactants, where the anionic surfactants are present in from 0 to about 15% by weight. Fatty acid soaps are taught in amounts from 0.1 to about 90% of

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the composition (see col. 4, lines 6-28). Additional solvents including isopropanol are taught (see col. 5, line 59 through col. 6, line 3). The reference lacks teaching additional thickening agents, amphoteric surfactants, and methods of cleaning skin, scalp, or hair.

9. Rosser teaches detergent compositions. Rosser teaches that non-soap detergents, particularly nonionic surfactants can confer mildness to personal washing products (see col. 1, lines 21-50). Rosser also teaches that such products can have a problem with respect to the lowering of viscosity on storage (see col. 1, lines 21-30). As such, Rosser teaches the use of thickening agents for detergent gel compositions (see col. 4, lines 18-36). Further ingredients taught by Rosser include betaines to improve foam, as the addition of soap to liquid detergents is known to inhibit foam formation (see col. 1, lines 40-50; col. 2, lines 38-50).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compositions of Lance-Gomez by the addition of thickening agents and betaines, as well as the use of such compositions for washing skin and hair in order to benefit from compositions with improved foam due to the betaines as well as mildness on skin due to the presence of nonionic surfactants as taught by Rosser.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Guerin et al (US Pat. 6,299,798) teaches water-dispersible granules that form hexagonal phases in water. Clapperton et al (US Pat. 6,177,396)

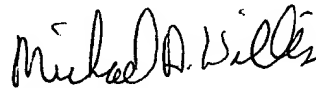
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teaches aqueous based surfactant compositions existing as micellar solutions. Leng et al (US Pat. 4,615,819) teaches detergent gels in hexagonal liquid crystal forms. Leng is silent with respect to the stability of the compositions as various temperatures. Rosser (US Pat. 4,975,218) teaches aqueous soap compositions containing ethoxylated nonionic surfactants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Willis whose telephone number is (703) 305-1679. The examiner can normally be reached on Mon. to Fri. from 9 a.m. to 5:30 p.m.

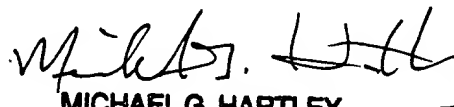
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie can be reached on (703) 308-4612. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.



Michael A. Willis  
Examiner  
Art Unit 1617

March 8, 2002



MICHAEL G. HARTLEY  
PRIMARY EXAMINER